

## **CHAPTER 39-16**

### **FINANCIAL RESPONSIBILITY OF OWNERS AND OPERATORS**

#### **39-16-01. Definitions.**

In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" or "director" means the director of the department of transportation of this state as provided by section 24-02-01.3, acting directly or through authorized agents.
2. "Driver" means every person who is in actual physical control of a motor vehicle whether or not licensed as a driver under the laws of this state.
3. "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a claim for relief on an agreement of settlement for such damages.
4. "License" means any license, temporary instruction permit, or temporary license issued under the law of this state pertaining to the licensing of persons to operate motor vehicles.
5. "Motor vehicle" includes every self-propelled vehicle, including trailers and semitrailers designed for use with these vehicles. The term does not include special mobile equipment or an electric bicycle.
6. "Nonresident" means every person who is not a resident of this state.
7. "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation in this state by that person of a motor vehicle, or the use of a motor vehicle owned by that person.
8. "Owner" means a person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor must be deemed the owner for the purposes of this chapter.
9. "State" means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

#### **39-16-02. Rules - Notice of proposed suspension.**

The director shall have the powers and perform the duties imposed by this chapter and may make rules for that purpose. Notice of a proposed suspension under this chapter must be given under section 39-06-33.

#### **39-16-03. Driving records - Not admissible in evidence - Fee.**

1. The director upon request shall furnish any person a certified abstract of the operating record of any individual, source document for the abstract entry, or record of clearance, subject to this title. The abstract must include the convictions, adjudications, and admissions of commission of traffic offenses of any driver and suspensions, revocations, and restrictions of an individual's operator's license. Any person, except the subject of the record, a law enforcement agency, a judicial officer, or another licensing jurisdiction functioning in that person's official capacity, requesting the abstract, source documents in aggregate form, or record of clearance shall indicate in writing the reason for the request and shall identify the person for whom or which the request is made and the intended recipient of the record.

2. Copies of abstracts are not admissible as evidence in any civil or criminal trial arising out of a motor vehicle accident. Upon request and subject to the provisions of this title, the director shall furnish an operating record or complete operating record to the subject of the record or to law enforcement or judicial officers.
3. A fee of three dollars must be paid for each abstract of any operating record, operating record, complete operating record, or record of clearance. A reasonable fee must be paid for each source document. The director may not assess a fee to a law enforcement agency, a judicial officer, or another licensing jurisdiction. The director shall send an additional copy of the abstract, source document if requested in aggregate form, or record of clearance to the driver whose record was requested, accompanied by a statement identifying the person making the request, identifying the person for whom or which the request is made, identifying the intended recipient of the record, and providing the reason for the request. An additional copy of the abstract or record of clearance may not be sent to a driver if the request for the record was made by the federal bureau of investigation or the United States central intelligence agency, or agents, or by any law enforcement agency or judicial officer.
4. A requester may provide the department with a list of names of drivers and may request any source documents from the department relating to the listed drivers for a set time period. The department shall provide this information in hard copy or electronic format. If in order to provide the information by electronic format the department sets up a computer program, the department may charge a requester a reasonable charge for a setup fee. This charge may not exceed the actual cost to set up the computer program. A requester of source documents in aggregate form shall pay the director a reasonable fee for making and mailing to the driver whose record was requested an additional copy of the document as it relates to that driver.

**39-16-03.1. Entries on driver's record abstract confidential.**

Notwithstanding any other provision of this chapter, the following entries on a driver's record or abstract are not available to the public, except for statistical purposes, other than by order of a court of competent jurisdiction accompanied by a fee of twenty-five dollars:

1. An entry more than three years old.
2. After the period of suspension ceases, an entry concerning a suspension under subsection 3, 4, 5, or 6 of section 39-06-03 or subsection 2, 5, or 6 of section 39-06-32.
3. An entry concerning a suspension as the result of a person under twenty-one years of age who has an alcohol concentration of at least two one-hundredths of one percent but under eight one-hundredths of one percent by weight within two hours after driving or being in actual physical control of a vehicle.

**39-16-04. Suspension of license for neglect to report accident.**

The director may suspend the license, or any nonresident's operating privilege, of any person who willfully fails, refuses, or neglects to make report of a traffic accident as required by the laws of this state.

**39-16-05. Suspension of license and when not applicable.**

1. The director, within ninety days after the receipt of a report of a motor vehicle accident within this state for which a driver is required to file a report under section 39-08-09, shall suspend the license or nonresident operating privilege of each driver of each vehicle in any manner involved in the accident unless the driver deposits security as provided in sections 39-16-09 and 39-16-10 in a sum which is sufficient in the judgment of the director to satisfy any judgment or judgments for damages resulting from the accident as may be recovered against such driver. Notice of suspension and opportunity for hearing must be sent by the director to the driver not less than ten days prior to the effective date of the suspension and must state the amount required as security. However, if a driver, either resident or nonresident, involved in the accident

purchases an insurance policy with at least the amount of coverage required by this section, and files proof and satisfies financial responsibility requirements thereof with the director, that driver may retain the license or privilege until the driver has accepted responsibility for the accident or agreed to a settlement of claims arising from the accident or until a court of this state has determined that the driver was negligent or responsible for the accident in whole or in part. If the driver is found negligent or responsible for the accident, in whole or in part, the license or privilege must be suspended and will not be returned until the driver complies with this chapter.

2. This section does not apply under the conditions stated in section 39-16-06, or:
  - a. To a driver, if the driver is the owner of the motor vehicle involved in the accident and had in effect at the time of such accident an automobile liability policy with respect to the motor vehicle involved in the accident, affording substantially the same coverage as is required for proof of financial responsibility under chapter 39-16.1.
  - b. To a driver, if not the owner of the motor vehicle, if there was in effect at the time of the accident an automobile liability policy or bond with respect to the driver's operation of the motor vehicle, affording substantially the same coverage as required for proof of financial responsibility under chapter 39-16.1.
  - c. To a driver, if the liability of the driver for damages resulting from the accident is, in the judgment of the director, covered by any other form of liability insurance policy or bond or certificate of self-insurance under section 39-16-32.
3. No such policy or bond is effective under this section unless by an insurance carrier or surety company authorized to do business in this state, except that if the motor vehicle was not registered in the state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of the policy or bond, or the most recent renewal thereof, the policy or bond is not effective under this section unless the insurance carrier or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the director to accept service, on its behalf, of notice or process in any action upon the policy or bond arising out of the accident; provided, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to the limit for one person, to a limit of not less than fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property to a limit of at least twenty-five thousand dollars because of injury to or destruction of property of others in any one accident. Upon receipt of notice of the accident, the insurance carrier or surety company which issued the policy or bond shall furnish for filing with the director a written notice that the policy or bond was in effect at the time of the accident, or the department may rely upon the accuracy of the information and the required report of an accident as to the existence of insurance or a bond unless and until the department has reason to believe that the information is erroneous.

**39-16-06. When requirements as to security and suspension do not apply.**

The requirements as to security and suspension in section 39-16-05 do not apply:

1. To the driver of a motor vehicle involved in an accident wherein no injury or damage was caused to the person or property of any one other than such driver.
2. To the driver of a motor vehicle if at the time of the accident the vehicle was stopped, standing, or parked and whether attended or unattended, except that the requirements of this chapter apply in the event the director determines that any such stopping, standing, or parking of the vehicle was illegal or that the vehicle was not equipped as required by the laws of this state and that any such violation contributed to the accident.
3. If prior to the date that the director would otherwise suspend a license or nonresident's operating privilege under section 39-16-05, there must be filed with the director evidence satisfactory to the director that the person who would otherwise have to file

security has been released from liability or been finally adjudicated not to be liable or has executed a confession of judgment, payable when and in such installments as the parties have agreed to, or has executed a duly acknowledged written agreement providing for the payment of an agreed amount in installments, with respect to all claims for injuries or damages resulting from the accident.

**39-16-07. Release from suspension of license.**

The license or nonresident's operating privilege suspended as provided in section 39-16-05 must remain so suspended and may not be renewed nor may any such license be issued to such person until:

1. Such person deposits or there is deposited on the person's behalf the security required under section 39-16-05;
2. One year has elapsed following the date of such accident and no evidence satisfactory to the director has been filed with the director that during such period an action for damages arising out of such accident has been instituted; or
3. Evidence satisfactory to the director has been filed with the director of a release from liability, or a final adjudication of nonliability, or a confession of judgment, or a duly acknowledged written agreement, in accordance with subsection 3 of section 39-16-06; provided, in the event there is any default in the payment of any installment under any confession of judgment, then upon notice of such default, the director shall forthwith suspend the license or nonresident's operating privilege of such persons defaulting which may not be restored unless and until the entire amount provided for in said confession of judgment has been paid; and provided further, that in the event there is any default on the payment of any installment under any duly acknowledged written agreement, then, upon notice of such default, the director shall forthwith suspend the license or nonresident's operating privilege of such person defaulting which may not be restored unless and until such person deposits and thereafter maintains security as required under section 39-16-05 in such amount as the director may then determine, or one year has elapsed following the date when such security was required and during such period no action upon such agreement has been instituted in a court in this state.

**39-16-08. Requirements of one not licensed.**

In case the driver or the owner of a motor vehicle involved in an accident within this state has no license, the person may not be allowed a license until the person has complied with the requirements of this chapter to the same extent that would be necessary if, at the time of the accident, the person had held a license.

**39-16-09. Director may fix, reduce, or increase requirement.**

The security required under this chapter must be in such form and amount as the director may require but in no case in excess of the limits specified in section 39-16-05 in reference to the acceptable limits of a policy or bond. The person depositing security shall specify in writing the person in whose behalf the deposit is made, and at any time while such deposit is in the custody of the director or state treasurer, the person depositing it may in writing amend the specification of the person on whose behalf the deposit is made to include an additional person; provided, that a single deposit of security shall be applicable only on behalf of a person required to furnish security because of the same accident. The director may reduce or increase the amount of security ordered in any case if, in the director's judgment, the amount ordered is excessive or inadequate. In case the security originally ordered has been deposited, the excess deposited over the reduced amount must be returned to the depositor or the depositor's personal representative forthwith, notwithstanding the provisions of section 39-16-10.

**39-16-10. Deposit of security with Bank of North Dakota - Release - How payment made.**

1. Security deposited in compliance with the requirements of this chapter must be placed by the director in the custody of the Bank of North Dakota and must be applied as in subsection 2 only to the payment of a judgment rendered against the person on whose behalf the deposit was made, for damages arising out of the accident in question in an action at law, begun not later than one year after the date of such accident, or within one year after the date of deposit of any security under subsection 3 of section 39-16-07, and such deposit or any balance thereof must be returned to the depositor or the depositor's personal representative, when evidence satisfactory to the director has been filed with the director that there has been a release from liability, or a final adjudication of nonliability, or a confession of judgment, or a duly acknowledged agreement, in accordance with subsection 3 of section 39-16-06, or whenever, after the expiration of one year from the date of the accident, or within one year after the date of deposit of any security under subsection 3 of section 39-16-07, the director is given reasonable evidence that there is no such action pending and no judgment rendered in such action left unpaid. Upon certification by the director, the Bank of North Dakota shall return any security deposited with the director under the provisions of this chapter to the person entitled thereto except as provided for in subsection 3.
2. Such deposit must be held by the Bank of North Dakota to satisfy, in accordance with the provisions of this chapter, any execution on a judgment issued against the person for whom such deposit was made, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, resulting from the ownership, maintenance, use, or operation of a motor vehicle in the accident which resulted in the requirement for the deposit of such security. Money or securities so deposited shall not be subject to attachment or execution unless such attachment or execution arises out of a suit for damages as aforesaid.
3. All payments and refunds made from cash deposits in the Bank of North Dakota under this chapter must be made upon a warrant-check issued by the department of transportation after submission of a duly authorized voucher.

**39-16-11. Record not admissible as evidence.**

Neither the report required, the action taken by the director pursuant to this chapter, the findings, if any, of the director upon which action is based, nor the security filed, nor the insurance carried or furnished as provided in this chapter may be referred to in any way, nor be any evidence of the negligence or due care of either party, at the trial of any action at law to recover damages.

**39-16-12. Notice of failure to satisfy judgment.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-13. Suspension of license - Temporary release.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-14. Satisfaction of judgment.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-15. Installment payments.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-16. Revocation of license for reasons other than provisions of this chapter.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-17. Proof of financial responsibility.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-18. Proof by showing insurance coverage.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-19. Nonresident owner.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-20. Motor vehicle liability policy.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-21. Notice of proposed cancellation of policy by insurer.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-22. Other laws requiring insurance.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-23. Financial responsibility may be evidenced by bond.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-24. Deposit of cash with state treasurer.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-25. Employment or family connection in lieu of proof of financial responsibility.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-26. Release of bond or deposit on making other proof of responsibility.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-27. Procedure on failure of proof on file.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-28. Cancellation of bond or return of deposit.**

Repealed by S.L. 1967, ch. 313, § 3.

**39-16-29. Seizure or return of operator's license.**

Repealed by S.L. 2009, ch. 328, § 8.

**39-16-30. Operating while under suspension or revocation - Penalties.**

Repealed by S.L. 2005, ch. 330, § 8.

**39-16-31. Federal, state, or municipal ownership.**

This chapter does not apply with respect to any motor vehicle owned and operated by the United States, this state, or any political subdivision of this state or any municipality therein.

**39-16-32. Who may be self-insurer.**

1. Any person in whose name more than twenty-five motor vehicles are registered may qualify as a self-insurer by obtaining a certificate of self-insurance issued by the director as provided in subsection 2.
2. The director may, upon the application of any person, issue a certificate of self-insurance when the director is satisfied that the person is possessed and will continue to be possessed of ability to pay any judgment obtained against the person.

3. Upon not less than five days' notice and a hearing pursuant to such notice, the director may cancel a certificate of self-insurance if the director is satisfied that the person is not possessed or will not continue to be possessed of ability to pay any judgment obtained against the person. Failure to pay any judgment within thirty days after such judgment has become final constitutes a reasonable ground for the cancellation of a certificate of self-insurance.

**39-16-33. Effect on certain laws.**

Repealed by omission from this code.

**39-16-34. Not retroactive.**

Repealed by omission from this code.

**39-16-35. May rely on other process.**

Repealed by omission from this code.

**39-16-36. Citation.**

Repealed by omission from this code.

**39-16-37. Effective date.**

Repealed by omission from this code.